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Global Value Chains and Labour Standards in the European Union’s Free Trade Agreements

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Mirela Barbu

Liam Campling

Adrian Smith

James Harrison

Ben Richardson

Global Value Chains and Labour Standards in the European Union's Free Trade Agreements: The Missing Link between International Trade Regulation and Global Production?

Mirela Barbu*, Liam Campling**, Adrian Smith*, James Harrison† and Ben Richardson††

*School of Geography, Queen Mary University of London, United Kingdom (corresponding author Adrian Smith: a.m.smith@qmul.ac.uk)

**School of Business and Management, Queen Mary University of London, United Kingdom

†School of Law, University of Warwick, United Kingdom

††School of Politics and International Studies, University of Warwick, United Kingdom

Abstract

This paper investigates the extent to which the labour standards provisions in the European Union's (EU) recent free trade agreements are capable of having an effect on working conditions in global value chains. The paper argues it is vital to develop an understanding of how legal and institutional mechanisms established by these agreements intersect with global value chain (GVC) governance dynamics in contrasting political economies. An analytical framework is developed for assessing the implementation of labour standards in FTAs that draws upon GVC approaches. The paper then applies this framework to explore how governance arrangements and power relations between lead firms and local producers play out in two contrasting value chains and national contexts.

This analysis demonstrates how labour standards provisions in EU trade agreements are faced with a range of differentiated environments, and that there are serious difficulties in creating meaningful change in global value chains given the limitations of the EU's current model of labour standards provisions. The paper finishes with some ideas for how EU FTAs might better support efforts to enhance labour standards in global value chains in the future.

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Introduction

In the EU's recent 'Trade for all Strategy', the European Commission argues for the need to promote a set of 'European values' through trade policy (European Commission, 2015a: 20-26). The strategy makes it clear that all free trade agreements (FTAs) will include elements related to sustainable development, human rights, fair and ethical trade, the fight against corruption, and good governance (EC 2015a: 22-26). As part of this agenda, a new three-way relationship is articulated between trade policy, sustainable development and global value chains (EC, 2015a: 5). This new articulation reflects the wider engagement in international economic policy-making communities with the concept of global value chains (GVCs) (Neilsen 2014, Werner *et al* 2014, Stephenson 2016).

The EU's approach proposes that action must be taken to *directly address* responsible management of global value chains if trade policy is to be brought into line with European values:

> **Responsible management of the supply chains is essential to align trade policy with European values** … The Commission will increase transparency in supply chains and improve consumer information by creating additional incentives for supply-chain due diligence reporting by large EU companies,

> notably by publishing annually a list of reports submitted by 'responsible supply chain reporting' companies (EC 2015a: 24-25; emphasis in original).

The EU argues that responsible management of global value chains can be pursued through the sustainable development agenda in its trade agreements. A key element of the sustainable development agenda in the EU's approach to trade has been to embed labour standards within a Trade and Sustainable Development (TSD) chapter in each of the so-called 'new generation' agreements since the EU-South Korea agreement which entered into force in 2011 (ILO 2013, Campling *et al* 2016). It is argued that trade agreements, and the labour standards provisions contained within them, can play an important role as 'levers' to create greater responsibility in supply chains (Malmström 2015, EC 2015a: 5).

Yet while TSD chapters in EU FTAs provide an important precedent and early exemplar of the EU's 2015 *Trade for All* strategy, there is an analytical gap in work that seeks to evaluate the effectiveness of this approach to enhance labour and environmental standards in global value chains. There is a growing literature seeking to assess the impact of the EU's approach to trade and sustainable development via the institutional and legal governance arrangements established in the agreements (e.g. Postnikov and Bastiaens 2014, Van den Putte 2015, Campling *et al* 2015, ILO 2016). However, much of this work has yet to consider the influence of power relations between firms in setting limits to the possibilities for improvements in labour standards. It is our argument in this paper that understanding the extent to which labour standards clauses in FTAs can be an effective mechanism for enhancing labour standards in the world economy requires attention to inter-firm power relations in global value chains, which structure the range of possibilities for action to improve labour standards by supplier firms in partner countries. In making this argument we draw upon the expanding body of research focusing on the relationship between global value chains, global production networks (GPNs), and labour processes (see Newsome *et al* 2015). The paper investigates the relationship between EU FTA clauses on labour standards, national political economies that frame the operation of labour regimes, and the ways in which these intersect with firms operating within national spaces of legal and labour regulation, and how they are (unevenly) integrated into GVCs. In doing so, we aim to demonstrate that, if labour standards provisions in EU FTAs are going to have a meaningful impact on working conditions in GVCs, they need to take into account the differentiated governance regimes and power relations between firms across different GVCs.

The paper is organised into five sections. The next section examines existing approaches to identifying measurable impacts of labour standards in free trade agreements. The impact of value chain governance and power relations on labour standards is explored in section three, focusing on labour conditions within firms integrated into GVCs. Drawing upon two archetypal case studies of value chain governance, a conceptual framework for understanding the interaction between GVCs and the regulatory spaces for labour standards is developed in section four. Some concluding reflections on the structure of the EU's TSD chapters, and different approaches to promoting labour standards in EU FTAs are presented in section five.

Trade-labour linkages and labour standards in FTAs

The failure to negotiate labour provisions in the multilateral trade system during the WTO Uruguay Round in 1994, followed by a second unsuccessful attempt during the WTO Singapore Ministerial Conference in 1996, reflected widespread anxiety concerning the potential protectionist nature of social clauses in international trade agreements (Wilkinson 1999, Wilkinson and Hughes 2000). Alongside this debate over labour standards in trade (Haworth and Hughes 1997, Tsogas 2001, Elliott and Freeman 2003), there has been an increase in labour provisions in EU and US bilateral trade agreements after 1994[1] as an attempt to channel the economic benefits of liberalization into social rights and counter the race-to-the-bottom hypothesis (Tsogas 1999, ILO 2016).

Agreements covering labour provisions have proliferated over twenty years, with almost half of the trade agreements with labour provisions coming into existence since 2008, and

[1] The first agreements to include labour provisions are the North American Agreement on Labour Cooperation (came into force in1994 as a side agreement to NAFTA) and the trade agreement between the EU and the Republic of South Africa (signed in 1999 and came into force in 2004).

over 80 per cent since 2013 (ILO 2016). Canada, the EU and USA have been the most active in promoting labour provisions, albeit adopting two broadly contrasting approaches. Agreements concluded by Canada and the US invariably include a conditional element where non-compliance with labour standards can entail some kind of economic sanction. The EU has adopted an approach centred on dialogue and the promotion of sustainable development agendas in trade policy (ILO 2013, Campling *et al* 2016), providing a framework for engaging civil society groups in monitoring and cooperation around 'sustainable development', of which labour standards are one part (Oehri 2015).

The various models of labour standards in different FTAs have been the subject of a large number of studies, grouped into three broad areas. A first group focuses on the *legal aspects* of the provisions, especially the ways in which substantive standards are formulated and procedural commitments are undertaken. Some compare the legitimacy and effectiveness of the provisions promoted through *soft* and *hard* law approaches (Abbott and Snidal 2000, Karlsson-Vinkhuyzen and Vihma 2009, Vogt 2014). Others focus on the nexus between human rights and sustainable development obligations contained in the labour and environmental standards included in TSD chapters (i.e. Bartels 2013).

A second group of studies focuses on the *institutionalization mechanisms* in the agreements and the ways in which multi-level spaces of governance are interconnected through legal obligations and the methods of interaction deployed in the TSDCs targeting different institutional structures (e.g. social partners, civil society, national governments, inter-partner committees, the EU, ILO etc.). The focus has been on *inter alia* the institutional mechanisms to elicit labour commitments in FTAs (Doumbia-Henry and Gravel 2006, Van den Putte 2015), different levels of labour standards' regulations in trade (Tsogas 2001, Oehri 2015), the role of the ILO in implementing a common set of labour provisions (Agustí-Panareda, Ebert and LeClercq 2014, Peels and Fino 2015), and the role of other provisions targeting national employment policies in trade agreements (Depelch and Ebert 2014). This reflects an increasing interest in the role of the EU in promoting social dimensions in trade policy (Orbie and Barbarinde 2008, Orbie and Tortell 2009, Van den Putte *et al* 2013, Van den Putte and Orbie 2015).

A third group of studies focuses on assessing the *effectiveness of labour standards* in FTAs. Postnikov and Bastiaens (2014) find that the likelihood of a state fully protecting workers' rights rises from four to fourteen percent after the coming into force of an agreement with the EU containing labour provisions. A number of studies focusing on the construction of labour standards' indicators seeking to assess qualitative concepts with the aim of allowing a comparative analysis between countries can be found in Kucera (2007). Most of these studies focus on both *de jure* and *de facto* aspects of labour standards, therefore looking at issues concerning compliance with ILO Conventions and jurisprudence, and the outcomes of labour standards' implementation. A separate set of approaches to the assessment of the effectiveness of labour provisions in trade agreements seeks to establish explanatory patterns regarding the effects of labour standards on employment relations and labour rights' enhancement. These approaches focus on regulatory mechanisms in force during the implementation of FTAs in specific national contexts (Wells 2006, Schrank 2013); the preliminary conditions necessary to trigger labour solidarity in different institutional contexts (Compa 2001, Hilary 2014); and the consequences of labour standards' violations on trade and overall growth (Zhou and Cuyvers 2011).

Within this broader literature, there is growing scholarship which examines the EU's approach in its 'new generation' post-2011 agreements. Here it is argued that it is possible to identify an emerging 'blueprint' in the approach taken by the EU (Van den Putte *et al* 2013). Each of the EU's recently negotiated FTAs contain a specific chapter on 'Trade and Sustainable Development' (TSD). These include substantive legal standards and institutional mechanisms designed to oversee issues of trade governance and sustainable development – at the heart of which is a procedural commitment to engage with civil society organisations in the monitoring of these issues (summarised in Table 1).[2]

[2] Slightly earlier agreements such as the EU-CARIFORUM Economic Partnership Agreement make slightly different provisions in a separate chapter on "social issues", but contain a similar commitment to

Table 1: Key provisions and institutional mechanisms included in TSD Chapters

Provisions and mechanisms	Formulation in the TSD chapters of EU FTAs
1. *Substantive* standards	Requirement to meet or progressively implement c*ore labour standards* as embodied in the ILO fundamental conventions *Rights and principles* as referred to in: • The ILO Declaration of Fundamental Principles and Rights to Work (1998) and its Follow-up • The UN Economic and Social Council on Full Employment and Decent Work for All (2006) • The ILO Declaration on Social Justice for a Fair Globalization (2008)
2. *Procedural* commitments	• Transparency • Dialogue • Cooperation • Commitment to impact assessment

dialogue and the involvement of civil society organisations in the governance of this aspect of the agreement.

3. *Institutional* mechanisms	• Trade and Sustainable Development Sub-Committees • Domestic Advisory Groups • Civil Society Forum • Panel of experts

There are a limited number of studies which examine the effectiveness of the EU's 'new generation' approach (Orbie and Van Den Putte 2016, Van Den Putte 2015, Ebert 2015). These studies concentrate on the degree to which the institutional mechanisms created, and funding which flows to labour-related activities are effective in promoting labour standards in trading partners. Others have argued that the EU's current approach is severely limited by various operational failings, which means that institutional mechanisms are not functioning effectively (Harrison et al. *forthcoming*). Building upon these claims, in this paper we suggest that there has been a failure to articulate clearly how labour standards provisions will have an effect on working conditions in GVCs. We argue that if the EU's labour standards provisions are to have such an effect, they need to take into account the extent to which supplier firms located in countries producing goods for the EU market and which have signed an FTA with the EU, have a capacity to enhance labour standards. This depends on the forms of value chain governance in operation in the production networks which such firms are integrated into, but which the FTA TSD chapters neglect. Crucially, we show that forms of chain governance cannot always be deduced from industry type or a firm's insertion into a particular segment or node of a value chain. This advances recent GVC scholarship that seeks to overlay governance typologies derived from distinct sectors in particular times and places (Gereffi *et al* 2005) with additional typological constructs of industrial relations (Lakhani *et al* 2013). We examine the FTA-GVC-labour standards nexus by drawing upon two case studies. The first examines the East European clothing industry and its integration into EU-oriented value chains that have deepened because of the signing of FTAs. The second focuses on the South Korean automotive sector in the context of the 2011 EU-Korea FTA. Both industries are key export sectors in their respective regions and it is expected that the effects of trade-related labour standards provisions would be most likely to be found in such export oriented industries. The two GVC cases highlight how buyer-driven and producer-driven value chains create different prospects for labour governance. This finding correlates with other research that has questioned assumed configurations of inter-firm power relations in GVCs (Parker *et al* 2014, Raworth and Kidder 2009). The purpose of the rest of this paper is to establish a framework to understand how the similar institutional apparatuses and models of public governance in the EU's FTAs concerning labour provisions relate to the production of geographically and sectorally differentiated outcomes of labour standards improvement, labour conditions and rights in countries signing FTAs with the EU.

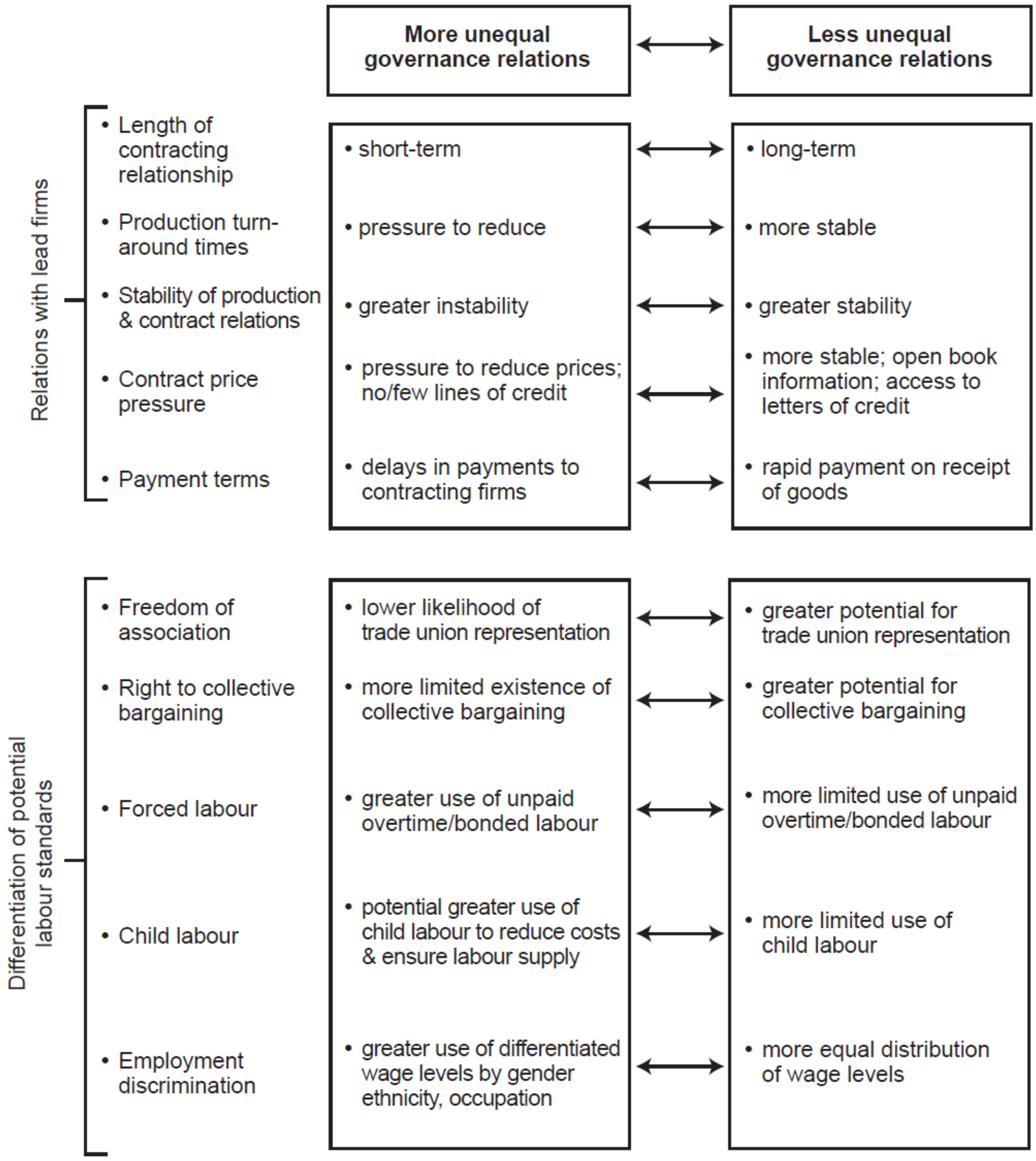
Global value chain governance and labour standards

Although the EU acknowledges the importance of global value chains in world trade, GVCs are not explicitly recognized in the trade and sustainable development sections of the EU's FTAs other than in broad commitments to corporate social responsibility. As the signatory parties of an agreement are expected to channel their efforts towards the enforcement of labour standards, including in relation to export sectors, this goal appears exceptionally challenging when taking into consideration the fact that inter-firm power relations remain a key dynamic creating constraints on improving international labour standards. Understanding the interaction between lead firms, globally dispersed suppliers and labour is therefore key to identifying the possibilities and limitations of labour standards clauses in bilateral inter-state trade agreements for improving working conditions within global value chains. In this section we explore the ways in which lead firm power shapes suppliers' activities and the distribution of value, costs and risk within GVCs which, in turn, leads to a differentiated corporate landscape in the ability to affect the implementation of labour standards as set out in FTAs. We argue that it is necessary to appreciate the crucial role that forms of integration into inter-firm power relations play in structuring the boundaries around which enhancement of working conditions is possible. The ability of a supplier firm integrated into a wider GVC (and located in an economy with an FTA with the EU) to implement enhanced labour standards is not determined solely by FTA provisions and their level of implementation by national governments. A fundamental determinant is the *capacity* of the supplier firm to implement change in working conditions and labour standards. Such capacity is itself structured by the particular pressures and forms of governance that supplier firms experience from their lead firm partners.

Global value chains are characterized by inter-firm relations, which reflect the often asymmetric power relations between lead firms and their suppliers. The complexity of transactions, the degree to which the information can be codified, and the capability of suppliers have been identified as key factors determining different forms of chain governance (Gereffi *et al* 2005). Inter-firm governance recognises that a global value chain is not a linear space of production, distribution and consumption, but instead is articulated in various dispersed segments which are invariably positioned quite differently in the distribution of power relations between firms (Coe and Hess 2007, Pickles and Smith 2016).

Governance relations between lead firms and suppliers is a key concept for understanding the ways in which lead firms seek to control costs and quality along the chain with differential outcomes for workers. In summary, Figure 1 elaborates five main attributes of inter-firm relationships within GVCs: the length of contract relationship, production turnaround times, stability of production and contract relations, contract pressure, and payment terms (Kaplinsky and Morris, no date). These power asymmetries determine whether inter-firm power relations in the value chain are more or less unequal. In the lower part of Figure 1, two different scenarios of potential variations in labour standards are shown. The causal relations between these two parts are however not linear. They are always mediated by national political economic forces and are presented here as elements along a continuum. More unequal chain governance relations are likely to result in a deterioration of the labour standards in the suppliers' working environment, although the severity of the decline depends on the national labour regimes within which these firms are operating. Equally, less iniquitous chain governance relations are not automatically transferred into improvements in labour conditions, but the impact of these factors will differ according to the labour regimes and the national political-economic contexts within which they operate. Other research confirms that variations in *vertical power relations* between lead and supplier firms in the value chain can have a direct impact on working conditions in supplier firms. For example, in their study of Nike in Pakistan, Lund-Thomsen and Coe (2015: 286) found that the most important feature of Nike's relationship with its supplier was the instability of orders. Because of Nike reducing the order volume, the supplier reduced workers' wages, fringe benefits and gratuity payments.

Figure 1. Global value chain governance and labour standards (elaborated from Kaplinsky and Morris, n.d.)



While global buyers can play a significant role in firm-level upgrading with their closest suppliers (Schmitz and Knorringa 2000, Smith 2015a), this does not automatically lead to improvements in labour conditions: “simultaneous firm upgrading and improvements in labour conditions are most likely an exception to the rule, as they are limited to the initial phases of insertion in GVCs” (Knorringa and Pegler (2006): 474). Although suppliers may be under increased pressure from lead firms to implement forms of industrial upgrading in value chains, they are also squeezed by intense competition which limits their ability to obtain a premium from these improvements and to enhance working conditions. Kaplinsky (1998: 4) has suggested that this results in “immiserising growth” when “growing participation in industrial activities [...] may in fact become associated with declining standards of living”, and Smith (2015a) has shown how integration into EU-oriented Tunisian production networks can differentiate forms of industrial and social upgrading and lead to economic insecurity.

Despite the existence of a rich body of literature exploring the interdependencies between GVC governance, CSR and social relations in the workplace (Lund-Thomsen and Nadvi 2010, Locke 2013, Locke *et al* 2013, Bartley and Egels-Zanden 2015, Rossi 2015, Wright 2015), there is no analytical framework to consider the linkages between institutional arrangements to promote labour standards through FTAs, and the unequal power relations between firms operating in global value chains. Trade policy has been considered in the GVC literature only largely insofar as it restructures inter-firm relations (e.g. following tariff removal, the relaxation of rules of origin, restrictions on state aid) (Gereffi *et al* 2002, Azmeh 2015, Curran 2015, Smith 2015b).

All of this research arises out of a concern to understand the impact of GVC power relations between lead and supplier firms, and their regulation by both inter-firm relations and institutional practices. It highlights the importance of recognising the differentiated capacity of supplier firms to implement effective improvements in working conditions and labour standards. It is therefore essential that the power relations and uneven governance mechanisms between firms are considered in any attempt to understand the extent to which the labour standards elements of FTAs can be an effective mechanism by which working conditions can be improved in different regions of the world economy. In the following section we develop a conceptual framework for understanding the interaction between GVC governance, the regulatory framework for labour standards in FTAs and national political economies.

Global value chain governance and FTAs

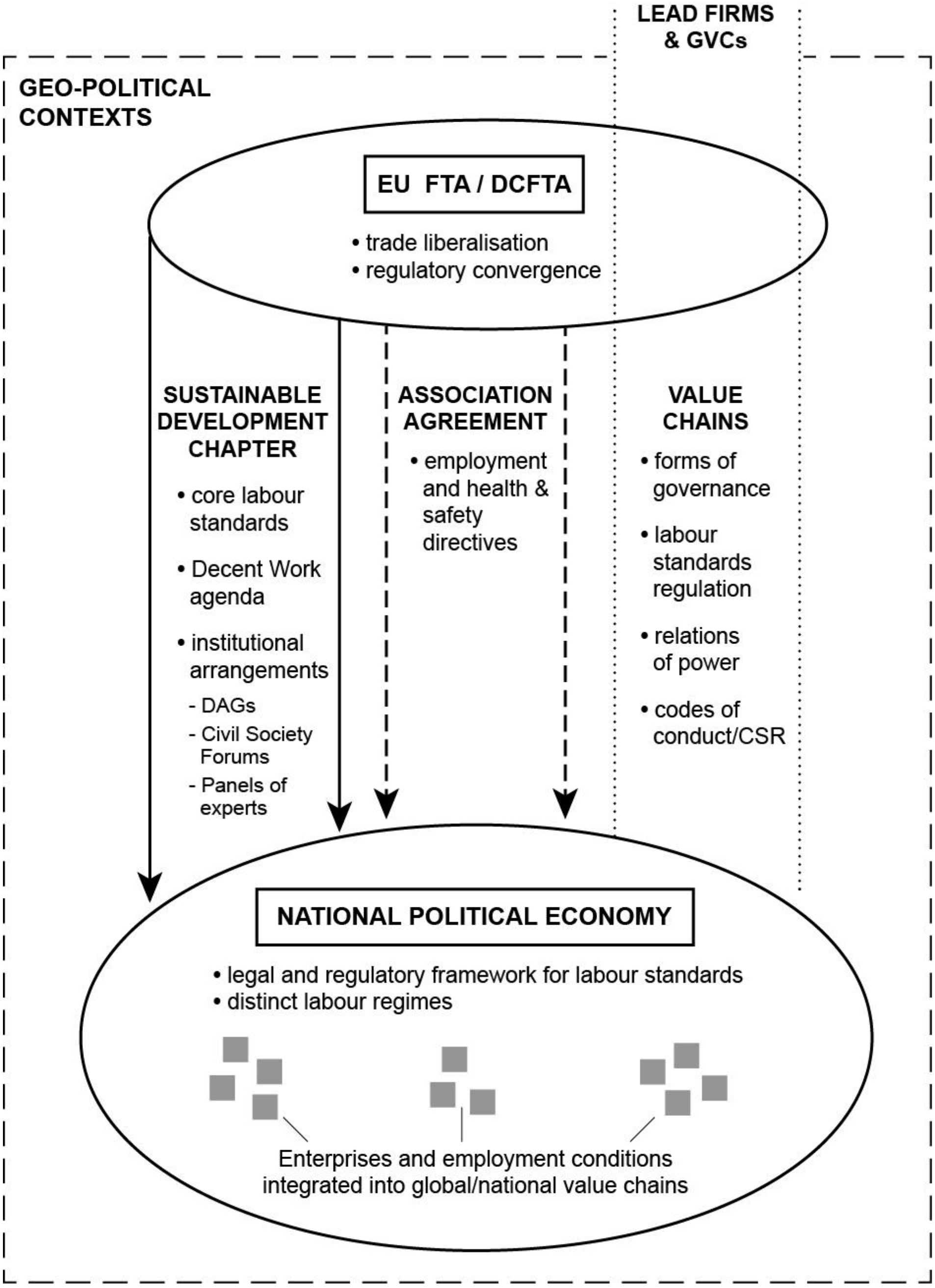
The potential for labour standards clauses contained in FTAs to be used to drive progressive change in working conditions is differentiated on the basis of three primary forces: (a) the national political economy and geo-political contexts involved, including the national labour regimes and regulatory frameworks established by states; (b) the sectoral focus of dominant export-oriented economic activity; and (c) the kinds of governance arrangements and power relations that export-oriented supplier firms are integrated into. The governance of power relations between lead and supplier firms establishes a differentiated landscape driving the effectiveness of implementation of labour standards clauses in FTAs. This differentiation is the result of the particular pressures placed on suppliers in exporting countries by lead firms in GVCs. This profoundly shapes and potentially limits the possibilities for improvements in labour standards, which FTAs seek to achieve via legal and institutional means, but which may be limited by the structures of economic power relations between supplier and lead firms. The implementation of labour standards takes place in different national political-economic systems with distinct forms of national labour regulation and labour regimes. Each of these shape in profound ways the potential effectiveness of international regulatory mechanisms such as the EU's approach to labour standards in its 'new generation' FTAs.

Figure 2 illustrates the contrasting governance domains connected within EU FTAs, which drive this differentiated landscape of labour standards effectiveness. On the one hand, the EU's trade liberalization agenda is deeply rooted in the integration of third countries into the Single Market and the promotion of regulatory convergence, effectively leading to forms of externalisation of EU economic governance mechanisms and/or approximation to global standards in third countries (see, for example, Smith 2015b and Young 2015). On the other hand, the national political economies of the signatory countries in which distinct forms of labour regimes and different legal and regulatory frameworks for labour provisions are embedded will also shape the extent to which labour standards provisions in FTAs affect change in the material conditions of workers. In the EU's FTAs, this connection is regulated in the trade and sustainable development chapter (the left-hand column of Figure 2) which includes key legal provisions and institutional mechanisms (as summarised in Table 1).

Equally, states which are aiming to become members of the EU or which are integrated into the EU's neighbourhood policy – such as Ukraine, Moldova and Georgia at the present time, where the FTA is part of an Association Agreement – are required to achieve a higher level of regulatory convergence and approximation than in "standard" bilateral FTAs. Such states are required to adopt the EU's employment and health and safety directives of the EU's *acquis communautaire* (the middle column of Figure 2), with potential to require deeper transformations in this sphere of working conditions.

However, the ability of the EU's FTA clauses on labour standards and national regulatory frameworks concerned with labour standards to effect change in the factories and fields of states which are signatories to an FTA is also affected by the power relations between firms across the different value chains found within a national economy, and the ways in which GVC governance and power relations potentially differentiate the capacity of different types of firms and suppliers of lead firms to enhance labour standards (the right-hand column of Figure 2). The relationship between different forms of GVC governance and power relations and the strategies employed to regulate labour are examined in the following sections, as they intersect with labour standards clauses in FTAs. We focus on illustrative examples found across different forms of value chain governance: garments and automotive. In labelling these as buyer-driven and producer-driven value chains respectively we mirror Gereffi's (1994) original GVC governance typology. This dichotomy of ideal-types has long been recognised as problematic (e.g. Fold 2002; Gibbon 2001), but it is useful for our purposes here of indicating the poles of a continuum of chain governance and its articulation with FTAs and labour standards.

Figure 2. The analytical intersection of FTAs, labour standards and global value chain governance



Labour, FTAs and buyer-driven global value chains

In the globally ubiquitous garment industry the role of international buyers as lead firms in driving an increasing separation of control of the production network from sites of assembly is an established dynamic of GVC governance and wider unequal inter-firm power relations, with significant (often negative) implications for labour standards governance and working conditions (Gereffi 1994, Rossi 2013, Smith 2015b, Kumar 2016). However, the industry is distinctly embedded in contrasting regional contexts and our focus here is on Eastern European garment value chains integrated primarily into EU lead firm production networks and EU FTAs. We draw upon the Moldovan experience, which is illustrative of the wider dynamics in the industry. The garment industry formed 14% of total exports from Moldova to the EU in 2015 (European Commission 2016a), and 19% of industrial employment (National Bureau of Statistics, Republic of Moldova). For firms integrated at the bottom of garment value chains it is invariably the case that the dominance of the requirements of lead-firm buyers in terms of price, quality and turnaround time requirements (Table 1) mean that consideration of labour standards and working conditions is often – at best – secondary. There is some evidence to suggest that a range of intermediaries (such as full-package firms) are becoming more important lead firms (Tokatli 2008, Kumar 2016), but the key issue is the implications of lead firm pressure on supplier firms in relation to price and cost in the value chain, often driving a so-called “race to the bottom”. Lead firm control reflects the concentration of capital among dominant firms as the outcome of a constellation of clear and growing tendencies in the global garment industry involving shorter lead times, fluctuations in styles with the regular introduction of new products (so-called "fast fashion"), and greater volatility in the demands of lead firms (Tokatli 2008, Plank *et al* 2012, Smith 2015a, Pickles and Smith 2016). The result is that, in sub-contracted garment production systems, the ability of national level labour standards arrangements attempting to enhance working conditions, is fundamentally constrained by these commercial pressures. Since the primary focus of FTA clauses on labour standards is to seek enhancement of working conditions at the national level, as a form of labour governance it is effectively constrained by these wider private power relations.

Private standards (e.g. corporate codes of conduct), to the extent that they exist in garment value chains, often have a greater presence in inter-firm management of labour conditions than public standards. This reflects what Appelbaum (2005: 373) has called "the privatization of labor law enforcement". However, much research has pointed to the failure of private governance to drive any substantial improvement in garment GVCs. A critical issue for research is the interface and current global mismatch between public and private forms of regulation and governance in garment GVCs (Meyer and Pickles 2010). Meyer and Pickles (2010: 3) argued that economic globalisation in the era of GVCs is characterized by a *governance deficit* involving "limited capacities in the emerging economies, weak international institutions, increasingly challenged institutions in advanced industrial countries, and everywhere greater emphasis on facilitation than on regulation or redistribution. This deficit can be understood … as a dis-embedding of the market from institutions of governance".

The degree and intensity of this dis-embedding and governance deficit are, however, necessarily contingent. For example, in parts of the former Soviet Union and elsewhere in post-socialist East-Central Europe, the continuing (albeit weakened) role of trade unions in regulating globalising production remains important in the governance of labour standards in garment GVCs, notably in former state-owned industries (Morrison and Croucher 2010, Morrison *et al* 2012, Pickles and Smith 2016). In newer privately-owned firms, which are often owned by foreign suppliers, labour standards are often under greater pressure, linked to the much more limited presence of trade unions in private firms (M36).[3] Consequently, understanding the interface between dynamics constituting a national labour regime including struggles by social actors such as trade unions, public policies such as national legal frameworks for labour regulation and international trade law, and the role of private initiatives over the development and implementation of core labour standards in garment production systems is key.

A second issue in labour intensive and labour-cost sensitive buyer-driven export sectors, such as garments, concerns the tension between continuing export competitiveness of

[3] M[number] and K[number] refer to anonymised interviews with a key Moldovan and Korean informants, respectively.

sectors and the FTA requirements to enhance employment conditions in those same sectors. Langan (2014), for example, highlights the predominance of low wages in labour-intensive export sectors[4], as well as a range of health and safety concerns. Moreover, he goes on to note that the precariousness of low-cost export production could potentially be increased in the face of enhanced conditions and increased labour and production costs arising from implementation of the Decent Work Agenda and attempts to improve working conditions via labour standards clauses in FTAs. Consequently, the "threat of investor flight within export-oriented sectors works to suppress the realisation of 'decent work'" (Langan 2014: 30).

A third issue relating to the differentiation of labour standards in the garments sector concerns the role that both brand position and the balance of domestic vis-à-vis export market production play in the enhancement of labour standards. The scope for making improvements in labour standards and working conditions in assembly factories may differ depending on whether a factory is producing low-value export products, higher-value tailored garments, or goods for the domestic market, which can require less pressure on contract prices and working conditions (Pickles and Smith 2016). The greater relative autonomy experienced by domestic market oriented firms who have developed their own brands and have greater control over their value chains enables those firms to avoid the

[4] See CCC (2014) for the case of the Moldovan apparel sector, and Pickles and Smith (2016) more broadly on the garment sector in East-Central Europe.

tight price and increasing contract squeezing pressure often experienced by firms in a dependent relationship with EU lead firms. In the context of East-Central European economies integrated into European Union markets via free trade agreements, the development of domestic brand identity in sectors such as clothing has been used in cases such as the Republic of Moldova as a deliberate state motivated attempt to move away from reliance on low-value export production and outward processing. Meanwhile, smaller assembly firms have found that they have insufficient production capacity to meet the volume requirements of lead firm contractors in the EU and have as a result pursued attempts to develop more domestic market presence and brand identity with potential export capacity via government support programmes. Such producers avoid the pressure on supply contracts with EU firms and consequently have greater capacity to control working conditions within factories (M30, M37, M38). Of course, the extent to which this transpires is contingent on the production politics of the firm concerned, but one of the key drivers of poor working conditions – EU lead firm contract price pressure – is removed from the equation.

Each of these dynamics in garment GVC governance – lead firm dominance, increased value chain pressures, governance deficits and competitive tensions around sustaining low wages – suggests that the ability of FTAs to drive labour standards improvement is difficult. This limitation is compounded by the constrained ability of EU FTAs to drive substantive change via the institutional mechanisms established in the agreements concerning "trade and sustainable development" (Campling et al. 2016; Harrison et al. forthcoming). Deepening trade integration via FTAs and market access liberalisation has clear commercial benefits for exporting firms in partner countries and lead firms in core economies. However, FTAs and deepening integration in labour intensive sectors such as garments are also likely to amplify the asymmetric relations between lead firms and suppliers by extending market access and export opportunity. Such relations compound pressures on supplier firms to drive down labour standards as they attempt to meet the requirements on price and time to delivery set by lead firms. These dynamics suggest that the benefits of FTA implementation will be quite different for workers than they are for firms, and for workers in different types of firms depending on their position in the value chain. A clear example of this is provided by the recent experience of the Moldovan garment industry. The staged liberalisation of garment industry trade with the EU in the context of initial Outward Processing Trade arrangements, which were followed by the GSP+ framework (2006-08)[5], EU Autonomous Trade Preferences (since 2008)[6] and since 2014 the provisional (now full) application of the Deep and Comprehensive Free Trade

[5] The GSP+ scheme applied to Moldova as part of a group of "especially vulnerable countries that have ratified and effectively implemented key international conventions on sustainable development, labour rights and good governance." European Commission, "European Member States back new EU Generalised System of Preferences (GSP)", 23 June 2005; http://trade.ec.europa.eu/doclib/docs/2005/june/tradoc_123862.pdf It allowed for additional preferential autonomous tariff rates for access to the EU market.

[6] ATPs involved "removing all remaining tariff ceilings for industrial products and by improving access to the Community market for agricultural products" Council Regulation (EC) No 55/2008 of 21 January 2008 introducing autonomous trade preferences for Moldova and amending Regulation (EC) No 980/2005 and Commission Decision 2005/924/EC.

Area (DCFTA) as part of the EU-Moldova Association Agreement, has led to a 7.5% growth of garment exports to the EU between 2013 and 2015 (elaborated from COMTRADE). This has occurred on the basis of deepening contracting relations with EU lead firms, often on an outward-processing (or *lohn*) basis in which inputs are temporarily exported to Moldovan factories for making-up into garments and then re-imported into the EU (Clean Clothes Campaign, 2014; see also Pickles and Smith, 2016). However, recent analysis suggests that garment workers have not benefitted from this export increase and have seen an intensification of work and low wages (Clean Clothes Campaign, 2014, M10, M36).

The entry into force of the 2014 Association Agreement, with a Deep and Comprehensive Free Trade Area at its core, includes the EU's template "trade and sustainable development" approach. The focus is primarily on "respecting, promoting and realising in their law and practice and in their whole territory the internationally recognised core labour standards, as embodied in the fundamental ILO conventions" (Article 365). Consequently, there are limited mechanisms to deal with two of the fundamental issues facing workers in the Moldovan garment industry; poverty wages and undeclared work (envelope wages) resulting from wage pressures from buyers with implications for social security, unemployment and pension contributions, and government revenue generation (Smith et al. forthcoming; M8). As such, the labour provisions in the FTA avoid tacking head on the issue of lead firm responsibility in global value chains, a point to which we return in the conclusions.

Labour, FTAs and producer-driven value chains

Cars and car parts are the most important global value chain affected by the EU-Korea FTA. The automotive industry accounted for 17% of South Korean industrial employment and 16% of EU imports from the country. The automotive GVC globally is controlled by a small number of lead firms that outsource to specialized production clusters, characterized by strong regionalization of production that has historically been driven by national political pressures (Sturgeon *et al*, 2008). Important changes in the global landscape of the automotive industries since the 1990s include the rationalization of vehicle platforms, the introduction of lean production and the development of modular manufacturing. Car assemblers concentrated their activities on design, system integration and after-sale services and outsourced the production of components and sub-systems to specialized suppliers. Growing competition on a global scale and tariff barriers spurred some manufacturers to set up final assembly plants in distant locations, persuading large suppliers to follow them abroad, a process described as follow sourcing (Humphrey and Memodovic, 2003). The low codifiability of the product, meaning that car component specifications are distinct to each manufacturer, "tied suppliers more tightly to lead firms" (Sturgeon *et al*, 2008: 308) and to compete first-tier suppliers increasingly consolidated.

Rutherford and Holmes (2008: 526) observe that fierce cost-driven competition in the automotive industry has impacted on suppliers' innovation strategies (i.e. making them take on increasing responsibilities for car design) and "the pressure to reduce costs has led to pathological behaviour across the supply chain […] including [Own Equipment Manufacturers] … shifting cost and risk to suppliers, sharing supplier proprietary information with competitors and the unilateral implementation of cost-reduction targets". Increasing competitive pressures and the global slump since 2008 are driving the automotive industry to reduce wage costs (National Labor Committee 2008, Katz *et al* 2013). Tendencies towards international outsourcing and modular manufacturing have had profound implications for labour bargaining power in automotive value chains as production becomes increasing fragmented, extending across national borders in the context of FTA implementation (Holmes 2004).

South Korean administrations have consistently promoted FTAs since 1997. For example, recognising Korea's heavy trade-dependence, the Lee Myung-bak administration (2008-13)[7] and his pro-big business Saenuri Party saw FTAs as the centrepiece in a strategy of "building a free-trade network that expands our export markets", achieving duty-free market access for 70 percent of national exports, and attracting foreign investment (Office of the President 2009: 29). The EU-Korea FTA was in part prioritised around liberalising

[7] It is worth noting that Lee was a Hyundai Construction employee for almost 30 years.

trade in the automotive sector, Korea's second largest export sector following electronics. The Korean automotive industry – dominated by one enterprise, Hyundai Motor Group (HMG) (which controls Kia) – was enthusiastic about the FTA because it was assumed that it would enhance market access (K29, K30). In practice, the expected commercial impact has been quite different. By June 2015, after four years of implementation of the FTA, Korean imports of European cars had grown by 206 percent: from €2 billion (74,600 units) in the year preceding implementation to €6.1 billion (210,900 units) (European Commission 2016b). Alongside this import penetration, high-end, large German cars have been a key component of this impact on the previously highly protected Korean market (K29, K30), due in part to the faster three-year tariff phase out for cars with larger engines in the FTA (Cooper *et al* 2011).[8] In contrast, Korean auto exports to the EU grew by 53 percent in the first year (from €2.6 billion to €4.0 billion[9]) but growth subsequently flattened for the next three years (European Commission 2016b).

Industrial relations in South Korea have historically been highly contested and, at times, violent (Katsiaficas 2012, Koo 2001). By the 1980s, auto workers had become relatively well-paid compared to other manufacturing workers, while the gains from the East Asian 'miracle' had not perceptibly trickled down (Eder 1997, Koo 2000). Subsequently, autoworker unions were able to negotiate considerable and wide-ranging gains through

[8] Given that large cars are more expensive, Korea's *previous* import tariff had a proportionately more protective effect by making European cars more expensive.
[9] Thirteen percent in terms of units imported (from 300,000 to 339,000).

much of the 1990s (Lansbury *et al* 2006, Koo 2001). Even if several labour protections in domestic law were since eroded, such as in the 1997 IMF reform programme (Kwon and O'Donnell 1999, Lee and Lee 2003), given the relatively recent history of militant unionism, it is reasonable to assume that labour standards implementation for autoworkers in South Korea would be strong.[10]

HMG dominates South Korean auto manufacturing, including through its outsourcing subsidiary Hyundai Mobis[11], (Wad 2008). The auto production network is highly geographically concentrated, but there are considerable differences in wages and conditions among autoworkers. Hyundai's 'technology-centered, skill-saving production system' is designed to utilize flexible technologies as a way of minimizing dependence on skilled workers (Kim 2015). Outsourcing has resulted in the replacement of regular workers with non-unionized 'irregular' workers[12] who are offered lower wages and poorer working conditions, often to work on the same production line (Byoung-Hoon and Frenkel 2004, Kim 2015, REF interviews, January 2016).

Trade union density in South Korea is estimated at around 10 percent (K5, K22, K23) from over 20 percent in the late 1980s (Koo 2001). This is explained, in part, by the

[10] In a report for US Congress, Cooper et al (2011, p.19 footnote 43) typify labour rights in South Korea as 'strong' – for *regular* workers (see below).
[11] Even though the 1997 crisis saw foreign takeovers of up to 20 percent of Korean auto suppliers, including by some big firms.
[12] A category used in Korea to denote a variety of types of 'flexibilised' employment practices.

employment of an increasing number of 'irregular' workers.[13] Irregular workers are more difficult to unionise because labour activists can be easily fired (K5, K11, K20). In the case of Hyundai, the firm was contravening a 2015 Supreme Court on the use of 'dispatched workers'. Under South Korean labour law it is not permitted to dispatch manufacturing workers employed by one firm to work for another firm in manufacturing (it *is* permitted in 32 specified non-manufacturing areas). Hyundai's dispatch of workers to suppliers contravened this law because these firms are largely controlled by Hyundai (they have few or no alternative buyers for their product) and Hyundai managers were found to be involved in substantial supervision and control of these workers' activities (Lee and Chang 2015, K27, K28). The Park Geun-hye administration appears not to have taken steps to substantively enforce the ruling – presumably as a pro-business signal by her Saenuri Party. Instead, in 2015 the Park regime pushed a number of repressive reforms to domestic labour law (K10, K22, K23). This includes a proposed new law allowing dispatched workers in manufacturing, which was known among some observers as 'Chung's Mong-Koo's law' (the CEO of HMG) because it allowed for the continuation of his firm's existing (illegal) practices. The enactment of this suite of legal proposals looks unlikely under the Park regime because of a large backlog of legislation (K11, K34) and the Saenuri Party's failure to maintain a majority in the National Assembly in 2016.

[13] A 1998 labour law reform allowed employers' to engage in dual – regular and irregular – contracting, opening the way for flexibilisation of employment.

Despite this, the future of current labour rights and protections under South Korean law is uncertain and the ability of the labour provisions in the TSD chapter to grapple with fundamental employment issues is limited (Campling et al. 2018).

If the FTA is unlikely to enable meaningful progressive advancement of labour standards, where might drivers of change in labour standards in the Korean auto industry be socially located? The short answer can be found in a combination of the political-economic power of Hyundai (and other Chaebol such as Daewoo and Samsung) and domestic social struggle, set in the historical geo-political context of Northeast Asia. HMG is politically entrenched and economically and geo-politically vital in Korea (including through its multitude of captive suppliers, see Kim 2015), and, unlike food and clothing, consumer-facing social standards are insignificant in automotive GVCs, thus change in working conditions is unlikely to come from an 'embedded autonomous' Korean state bureaucracy (Evans 1995) or with pressure from European consumers. The more likely source of change is in the balance of class forces in Korea's domestic political economy. From its outset, Hyundai benefitted from and quickly became an important player in the Cold War (Glassman and Choi 2014); and, connected, auto production was a central pillar of the developmental state as early as 1962 (e.g. Hyundai was dependent upon on government supports (Lansbury *et al* 2006).

Two distinct strategic perspectives on labour standards implementation in the Korea auto production network are identified. The first perspective would suggest that, even if some *dirigiste* policy levers remain available to shape the activities of firms (Pirie 2012), HMG is now so extensively invested in auto manufacture elsewhere (Brazil, China, the EU, India, Malaysia, the USA, and Vietnam) that it is a *global* firm (Yeung 2014) and can use its advantage of transnationality to threaten the Korean government with relocation to counter progressive labour standards (e.g. Peoples and Sugden 2001). An alternative optic might see HMG as still vulnerable to domestic political pressure. In 2016, Hyundai and Kia's largest factories are still in Korea and almost 75 percent of domestic production is exported (KAMA 2014); including to supply auto parts for HMG's factories in Czech Republic and Slovakia. Here the implementation of the labour standards commitments in the TSD chapter could play a minor, but potentially pivotal supporting role *if* supported by 'market power Europe' (Damro 2012); that is, if the EU were willing to leverage the terms of the FTA in support of Korean workers' struggles for improved labour representation and working conditions.

Conclusion

These GVC case studies illustrate that the structure of *private sector* power relations in the value chain within which lead firms and suppliers operate is a key determinant in establishing the conditions within which labour regimes are created and working conditions established. These constrain the ability of the clauses in the EU's *inter-state* FTAs pertaining to labour standards to enhance those conditions. Our argument has been that analytical attention must focus on the interplay between power relations between lead and supplier firms and GVC governance of social standards (i.e. *private* regulation) and labour standards embodied in the EU's FTAs (as a form of *public* regulation) as they both intersect with the capacity of supplier firms to implement effective improvements in labour conditions. It is not, in other words, an either/or question as to whether the EU's *public* regulation via the labour provisions in its trade agreements is more effective than *private* standards. Analytical attention must focus on the inter-dependencies and articulations between both dimensions, and labour provisions within trade agreements need to be constructed in such a way that they can operate effectively in relation to different GVCs if they are to have an effect. Consequently, the approach to achieving change in relation to labour standards issues in the automotive industry in Korea necessarily differs from how to achieve change in Moldova because the labour standards issues in the supply chain are different. However, the EU's approach in its FTA TSD chapters assumes a greater degree of universality of labour standards issues. For example, irregular workers in the auto industry in Korea are losing out the most, and the Korean government is currently weakening labour protections in relation to these workers, while informal forms of wage payment in the Moldovan garment industry predominate.

However, neither informal nor irregular workers are represented within the structures of the TSD chapters, with its focus on formalised, unionised activity.

It is, however, insufficient to only conjoin private and public governance and regulation as the most effective way to implement labour standards (see also Locke *et al*, 2013), by bringing together state, non-state and private actors. Voluntary codes of conduct have had little effect on reducing labour violations (Anner *et al*, 2013) and, for certain workers' rights, such as freedom of association, CSR cannot substitute for the effective enforcement of national labour laws (Locke *et al* 2013: 544). Rawling (2015) has also argued that forms of global regulation in GVCs are only possible through enhanced transparency in value chains which places greater responsibility on lead firms to disclose their suppliers' compliance with a minimum set of labour standards (see also Pickles and Zhu 2013). Rawling (2015: 668) puts forward a model for the collection of information by lead firms, concerning the location of workers in GVCs and their work conditions. These data should be disclosed to an industrial inspectorate which would make them public and thus help oversee the implementation of national legislation in this regard. This approach has the potential to combine with one that focuses on the direct involvement of workers and their representatives in monitoring and regulating labour standards, known as the emerging "worker-driven social responsibility" agenda (see the Florida Coalition of Immokalee Workers and the Fair Food Program; and the agenda pursued by Electronics Watch; see also Marx and Wouters 2015). The EU's approach to labour standards in its FTAs is focused on achieving change through working with trade partner governments (albeit with the aspiration that civil society actors will feed recommendations and ideas into intergovernmental processes). Allowing workers in particular value chains to play a more central role, when set alongside much more transparent procedures for disclosure and corporate liability would be a significant step forward in allowing labour standards provisions in FTAs to play an important role in creating greater responsibility in global value chains. Finally, the core labour standards embodied in the ILO fundamental conventions do not target directly the (low) contract prices paid to suppliers, which is considered by Anner *et al* (2013) as "the root cause of poor labour performance" in buyer-driven chains. This problem could be addressed through a new model of joint liability and responsibility in GVCs, written into FTAs, which seeks to balance the power relations between buyers and international suppliers.

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